IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 337 of 2004

Pratap Singh
S/o late Shri Dhyan Singh
R/o Rajkiya Udyan Ramtal,
Nagau Garden (Chakrata)
Dehradun, Distt. Dehradun

…… Petitioner

Versus

Mr. H.P. Singh, Director
Horticulture & Food Processing (Uttaranchal)
Udyan Bhawan, Chaubatia, Ranikhet,
District Almora.

…….. Respondent

Mr. Ram Ji Srivastava, learned counsel for the petitioner.
Mr. R.C. Arya, learned Standing Counsel for respondent.

Hon'ble P.C. Pant, J.

Heard learned counsel for the parties and perused the record.

2) This contempt petition has been filed complaining wilful disobedience of order dated 02.09.2003 passed in writ petition No. 1754 (S/S) of 2001, wherein following direction were issued by the Court:

> *"Therefore, the writ petition is allowed. The order dated 25.03.1998, contained in Annexure No. 1 to the writ petition, is hereby quashed. The respondents are directed to re-consider the case of the petitioner, if the petitioner is similarly situated*

as Daya Kisan Sanwal and Rameshwar Prasad. No order as to costs."

3) The respondent has filed his counter affidavit to the contempt petition. In para 12 whereof, it has been categorically stated that Sri Daya Kisan Sanwal and Sri Rameshwar Prasad were in higher pay scale then the petitioner at the relevant time when they were promoted in view of office memorandum dated 17.11.1981. Apart from this, it is stated in said para that special appeal is pending against the aforesaid order. In the rejoinder affidavit, the petitioner as in reply to the para 12 of the counter affidavit filed by the respondent, has not denied if Sri Daya Kisan Sanwal and Sri Rameshwar Prasad were not in the higher pay scale.

4) In the circumstances, since the aforesaid order was a qualified one, it cannot be said if the respondent has willfully disobeyed the Court's order. Therefore, the contempt petition is dismissed and the notices issued to the respondent are discharged.

(Prafulla C. Pant, J.)

Dt: 7th September, 2005
H. Negi